

## § 216.30

Director regarding release or other disposition. These reports must be provided in the form and frequency specified by the Regional Director or Office Director.

[61 FR 21933, May 10, 1996]

### Subpart D—Special Exceptions

#### § 216.30 [Reserved]

#### § 216.31 Definitions.

For the purpose of this subpart, the definitions set forth in 50 CFR part 217 shall apply to all threatened and endangered marine mammals, unless a more restrictive definition exists under the MMPA or part 216.

[61 FR 21935, May 10, 1996]

#### § 216.32 Scope.

The regulations of this subpart apply to:

- (a) All marine mammals and marine mammal parts taken or born in captivity after December 20, 1972; and
- (b) All marine mammals and marine mammal parts that are listed as threatened or endangered under the ESA.

[61 FR 21935, May 10, 1996]

#### § 216.33 Permit application submission, review, and decision procedures.

(a) *Application submission.* Persons seeking a special exemption permit under this subpart must submit an application to the Office Director. The application must be signed by the applicant, and provide in a properly formatted manner all information necessary to process the application. Written instructions addressing information requirements and formatting may be obtained from the Office Director upon request.

(b) *Applications to export living marine mammals.* For applicants seeking a special exception permit to export living marine mammals, the application must:

- (1) Be submitted through the Convention on International Trade in Endangered Fauna and Flora management authority of the foreign government or, if different, the appropriate agency or agencies of the foreign government

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that exercises oversight over marine mammals.

(2) Include a certification from the foreign government that:

- (i) The information set forth in the application is accurate;
- (ii) The laws and regulations of the foreign government involved allow enforcement of the terms and conditions of the permit, and that the foreign government will enforce all terms and conditions; and
- (iii) The foreign government involved will afford comity to any permit amendment, modification, suspension or revocation decision.

(c) *Initial review.* (1) NMFS will notify the applicant of receipt of the application.

(2) During the initial review, the Office Director will determine:

- (i) Whether the application is complete.
- (ii) Whether the proposed activity is for purposes authorized under this subpart.
- (iii) If the proposed activity is for enhancement purposes, whether the species or stock identified in the application is in need of enhancement for its survival or recovery and whether the proposed activity will likely succeed in its objectives.

(iv) Whether the activities proposed are to be conducted consistent with the permit restrictions and permit specific conditions as described in § 216.35 and § 216.36(a).

(v) Whether sufficient information is included regarding the environmental impact of the proposed activity to enable the Office Director:

(A) To make an initial determination under the National Environmental Policy Act (NEPA) as to whether the proposed activity is categorically excluded from preparation of further environmental documentation, or whether the preparation of an environmental assessment (EA) or environmental impact statement (EIS) is appropriate or necessary; and

(B) To prepare an EA or EIS if an initial determination is made by the Office Director that the activity proposed is not categorically excluded from such requirements.

(3) The Office Director may consult with the Marine Mammal Commission